

# WARRANT

## THE COMMONWEALTH OF MASSACHUSETTS TOWN OF BROOKLINE SPECIAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the FIFTEENTH day of NOVEMBER, 2011 at 7:00 o'clock in the evening for the Special Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

### **ARTICLE 1**

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of previous fiscal years, which may be legally unenforceable due to the insufficiency of the appropriations therefor, and appropriate from available funds, a sum or sums of money therefor.

or act on anything relative thereto.

### **ARTICLE 2**

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town.

or act on anything relative thereto.

### **ARTICLE 3**

To see if the Town will:

- A) Appropriate additional funds to the various accounts in the fiscal year 2012 budget or transfer funds between said accounts;
- B) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

or act on anything relative thereto.

## **ARTICLE 4**

To see if the Town will amend the General by-laws by adding:

### **SECTION 4.9 Withholding Exemption (Federal)**

The Town of Brookline, in its capacity as Federal Withholding Agent, shall, in compliance with Title 26, § 7701(a)(16), deduct and withhold any tax from town employees under the provisions of sections:

§1441 Withholding of tax on **NONRESIDENT ALIENS**<sup>1</sup>

§1442 Withholding of tax on **FOREIGN** corporations<sup>2</sup>

§1443 **FOREIGN** tax-exempt organizations, subject to sections<sup>3</sup>

§1461 Liability for withheld tax<sup>4</sup>

or act on anything relative thereto.

## **ARTICLE 5**

To see if the Town will amend its General By-Laws by adding a new section 5.10 as follows:

### **5.10 NEIGHBORHOOD CONSERVATION DISTRICTS**

#### **5.10.1. TITLE AND PURPOSE**

This by-law shall be known as and may be titled the Brookline Neighborhood Conservation District By-law. The Town of Brookline hereby establishes the category of Neighborhood Conservation District (“NCD”).

This by-law is enacted for the purposes of preserving and protecting groups of buildings and their settings that are architecturally or historically significant; preserving and protecting the layout of neighborhoods or historical subdivisions of neighborhoods, vehicular and pedestrian circulation patterns, green spaces, open spaces, landscapes, and viewsheds that are historically significant or significant to the character of the town or its neighborhoods; preserving and protecting distinctive features of the architectural, cultural, economic, political or social history of the town and its neighborhoods, and limiting the detrimental effect of alterations, additions, demolitions and new construction on the character of the town and its neighborhoods. Through this by-law, alterations, additions, demolition and new construction may be reviewed for compatibility, including without limitation design, massing, topography, scale and materials, with the existing buildings, green spaces, open spaces, courtyards, landscapes, neighborhood and subdivision plans and layouts, circulation patterns, viewsheds, settings and neighborhood character. This by-law seeks to encourage the protection of the natural and built environment including without limitation buildings, viewsheds, cultural landscapes, land use patterns and neighborhood plans through regulatory review. This by-law promotes the public welfare by making the town a more attractive and desirable place in which to live and work and by preserving its distinctive history and man-made and natural

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<sup>1</sup> [http://www.law.cornell.edu/uscode/html/uscode26/usc\\_sec\\_26\\_00001441----000-.html](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00001441----000-.html)

<sup>2</sup> [http://www.law.cornell.edu/uscode/html/uscode26/usc\\_sec\\_26\\_00001442----000-.html](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00001442----000-.html)

<sup>3</sup> [http://www.law.cornell.edu/uscode/html/uscode26/usc\\_sec\\_26\\_00001443----000-.html](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00001443----000-.html)

<sup>4</sup> <http://www.law.cornell.edu/uscode/26/1461.html>

characteristics for its inhabitants and its visitors.

Each NCD identified in Section 5.10.3 shall be geographically defined. Each such district shall be subject to a set of design guidelines specific to that district established as set forth herein.

### **5.10.2. DEFINITIONS**

As used in this by-law the following terms shall have the following meanings (whether or not capitalized in text):

- a. ADDITION* - An extension or increase in gross floor area, number of stories, height or size of a building or structure.
- b. ALTER or ALTERATION* - Any change to an existing building or other structure other than repair, or other changes to a site or property set forth in the definition of "Reviewable Project" (including without limitation Sections 5.10.2.m(iv) to 5.10.2.m(ix). Alteration shall include, without limitation, the moving or complete or partial demolition of an existing building or structure (as defined in Sections 5.3.2(h) and (i) of these By-Laws, except as exempted below).
- c. APPLICATION* - The complete document(s) and supporting material(s) to be submitted by an applicant desiring to obtain a Certificate of Appropriateness. A complete application shall include information reasonably deemed necessary by the Commission to enable it to make a determination.
- d. BUILDING* - A combination of materials forming a shelter for persons, animals or property.
- e. CERTIFICATE OF APPROPRIATENESS* - A document granted by the Neighborhood Conservation District Commission in order to permit a Reviewable Project to proceed, including without limitation to obtain a building (including demolition) permit.
- f. COMPATIBLE* - A Reviewable Project that meets the design guidelines of the Neighborhood Conservation District.
- g. DESIGN GUIDELINES* - The guidelines applicable to each Neighborhood Conservation District and used by the Commission to determine whether the design of a proposed Reviewable Project is compatible with the district. Such guidelines are set forth in Section 5.10.3 with respect to each district created under this by-law.
- h. DISTRICT* - Any Neighborhood Conservation District as established in this by-law.
- i. NEIGHBORHOOD CONSERVATION DISTRICT ("NCD")* - A property or group of properties designated in Section 5.10.3.
- j. NEIGHBORHOOD CONSERVATION DISTRICT COMMISSION ("the Commission" or "the NCD Commission")* - Members of the Brookline Preservation Commission, as supplemented by any additional individuals appointed in accordance with Section 5.10.4, acting as the body making determinations under this by-law regarding applications for Certificates of Appropriateness in a particular NCD. With respect to any NCD the composition of the NCD Commission may be specific to that NCD.
- k. PERSON AGGRIEVED* - An applicant and any immediate abutter whether inside or outside the NCD.
- l. REPAIR* - The reconstruction or renewal of any part of an existing building or other structure for the purpose of its maintenance without change in material, design or dimensions.

*m. REVIEWABLE PROJECT* - Except to the extent that the particular design guidelines for a specific NCD set forth in section 5.10.3 of this by-law may exempt some of these activities from review within that NCD, the following shall be subject to review, regardless of whether any demolition or other building permit is required: (i) a change to a building or other structure or part thereof such as removal, construction, reconstruction, restoration, renovation, replication, rehabilitation, addition, alteration, partial or total demolition and other similar activities, or the construction of a new building or other structure or part thereof; (ii) painting of previously unpainted masonry; (iii) addition or replacement of doors and windows, or tinting or altering glass reflectivity; (iv) a change to a site that includes constructing, placing, erecting, installing, enlarging or moving a building or other structure or other similar activities; (v) the removal or addition of streets, driveways, parking areas, walkways or paved surfaces; (vi) removal of trees more than eight inches in diameter at 56" height (d.b.h.); (vii) substantial or complete removal of areas of vegetation specifically identified in the design guidelines at or after the creation of the NCD; (viii) removal of ledge or other rock outcroppings with at least one foot exposure in height; or (ix) changes in grade elevation of more than three feet. The activities set forth in Section 5.10.6 shall be exempt from review.

*n. STRUCTURE* - That which is built or constructed, including buildings, walls, retaining walls, fences, walkways, driveways or parking areas, paving and curbs, street name signs, any signs larger than one square foot, swimming pools, tennis courts, freestanding HVAC equipment, and outdoor lighting that shines on any adjacent property.

*o. SUBSTITUTE SIDING* - Exterior building cladding such as vinyl, aluminum or cement board not original to the date of construction of that portion of the building.

*p. TEMPORARY BUILDING OR STRUCTURE* - A building or other structure, necessary for a specific event, incident or project, erected for a period of no more than 6 months, unless otherwise agreed to by the Commission, the installation and removal of which will cause no permanent change.

### **5.10.3. DISTRICTS AND GUIDELINES**

a. A Neighborhood Conservation District shall encompass a geographically defined area. Additional NCDs may be added by vote of Town Meeting and each such NCD and the design guidelines for such NCD shall be set forth in part d of this Section 5.10.3, as it may be amended. The boundaries of each NCD shall be set forth on a map on file with the Town Clerk. The NCD Commission, Town Counsel or Town Clerk shall, in addition, promptly present a copy of the map and applicable by-law for filing in the Norfolk County Registry of Deeds.

b. The design of each Reviewable Project in a Neighborhood Conservation District shall be subject to the particular design guidelines set forth in this Section 5.10.3 for such district.

c. The Commission may impose dimensional requirements that further the purposes of this by-law, including without limitation preventing Reviewable Projects inconsistent with the historic or architectural aspects, scale or massing, neighborhood or subdivision plan or layout, circulation patterns, or green space, open space, landscape, vegetation or viewshed character of the NCD.

### **5.10.4. NEIGHBORHOOD CONSERVATION DISTRICT OVERSIGHT**

a. Each Neighborhood Conservation District shall be overseen by a Neighborhood Conservation District Commission consisting of no less than five members. If deemed appropriate by the Board of Selectmen for the administration of a specific NCD after consultation with the chair of the Brookline Preservation Commission, the size of an NCD Commission may be increased to seven members. In the case of a five-member NCD Commission, three members shall be representatives of the Brookline Preservation Commission as described in Section 5.6.4 of the Town By-laws, and two members (and their alternates) shall be appointed by the Board of Selectmen. In the case of a seven-member NCD Commission, four members shall be representatives of the Brookline Preservation Commission and three members (and their alternates) shall be appointed by the Board of Selectmen. The members of an NCD Commission representing the Preservation Commission may be either regular or alternate members of the Preservation Commission, and shall be designated by the chair of the Preservation Commission to serve on a particular NCD Commission. The Selectmen's appointees shall be residents of the Town and may be, as appropriate, individuals such as residents of the NCD, residents of abutting areas, or residents of the Town with additional expertise in the issues specific to a particular NCD, such as architecture, historic landscape preservation, landscape architecture, agriculture, horticulture or forestry, urban planning or history. Such Selectmen's appointees (including alternates) shall initially be appointed to one-, two-, or three-year terms so as to minimize the number of terms that expire in the same year, and at the expiration of the initial terms, appointments shall be for three-years. Each NCD Commission shall elect a chair and vice-chair from within its own number, and a clerk from within or without its own number. In the absence of an NCD Commission member representing the Preservation Commission, the NCD Commission chair may appoint any regular or alternate Preservation Commission Member to act for that absent member. In the absence of an NCD Commission member appointed by the Selectmen, the NCD Commission chair may appoint any alternate appointed by the Selectmen to act for that absent member. Prior to the appointment by the Selectmen of the Selectmen-appointed NCD Commission members or alternates or in the event of the unavailability of such Selectmen's appointees, those positions shall be filled on an interim basis by regular or alternate members of the Preservation Commission appointed by the chair of the Preservation Commission, so that an NCD at all times has the requisite number of five (or seven, if applicable) members.

The Commission for each NCD shall exercise its powers in administering and regulating the alteration of buildings, other structures and natural and manmade elements within such NCD as set forth under the procedures and criteria established in this by-law.

The Commission for each NCD shall review all Reviewable Projects in the NCD, including without limitation new construction, demolition or alterations that affect the landscape or topography, the exterior architectural features of buildings and other structures, or the mass and siting of buildings and other structures. The authority of the Commission shall be binding except with regard to the categories of structural, landscape or architectural features exempted by Section 5.10.6 or that may be otherwise exempted by the particular design guidelines for a specific district set forth in Section 5.10.3 of this by-law.

An NCD Commission, or the Town on behalf of any such commissions, may receive and accept appropriations, grants and gifts to further the purposes of this by-law. An NCD Commission, or the Town on behalf of any such commissions, is also authorized to the

extent permissible by law to require the collection of funds as part of an application to be placed in a separate account. These funds may be used to fund Town review of a Reviewable Project, including the retention of consultants or the funding of staff required to complete review of an application.

b. An NCD Commission, after a public hearing duly noticed at least 14 days in advance, may adopt, and from time to time amend, reasonable rules and regulations not inconsistent with the provisions of this by-law or other by-laws governing the Commission. Such rules and regulations shall set forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, the process for collecting and utilizing funds including without limitation application fees and funds required to fund Town review, hearing procedures and other matters. Such rules and regulations may also include a set of design review standards, not inconsistent with the applicable design guidelines and exemptions contained herein under Sections 5.10.3 and 5.10.6, to refine and clarify the application of the design guidelines during the design review process. The NCD Commissions for various NCDs within the Town may adopt common rules and regulations for the conduct of their business, consistent with the specific design guidelines applicable to each NCD. The Commission promulgating any such rules and regulations shall file a copy thereof with the office of the Town Clerk.

#### **5.10.5. PROJECTS PROHIBITED WITHOUT A CERTIFICATE**

Except as this by-law provides, no building, other structure, site, property or part thereof within a Neighborhood Conservation District shall be altered (which term includes complete or partial demolition and new construction) and no other Reviewable Project may proceed unless the Commission shall first have issued a Certificate of Appropriateness. A building permit (which shall include permits for demolition) or an occupancy permit may not be issued for an altered building, structure, site or property or other Reviewable Project without the prior issuance of a Certificate of Appropriateness.

#### **5.10.6. ALTERATIONS EXEMPT FROM COMMISSION REVIEW**

a. It shall be the responsibility of the staff of the Commission, with the concurrence of the Chair of the Commission, to determine whether a proposed alteration or other project is exempt from review and they shall have ten business days to make this determination. Any alteration or project that is exempt from review shall receive a Certificate of Exemption that will permit such alteration or project to go forward without further review under the Neighborhood Conservation District By-Law.

b. Nothing herein shall be deemed to limit review to features visible from a public way unless such a limitation is set forth in the particular design guidelines for a specific district set forth in Section 5.10.3.d of this by-law.

c. The following projects or portions of Reviewable Projects are exempt from Commission review in all NCD districts:

1. Temporary buildings and structures subject to time limits (no longer than 6 months) and size limits determined by the Neighborhood Conservation District Commission.
2. One-story detached accessory structures without permanent foundations used as tool and storage sheds, playhouses, and similar uses provided the floor area

does not exceed 100 square feet. This exemption shall not apply to garages, parking structures or other structures for vehicular use nor to structures to shelter or visually shield HVAC equipment.

3. Interior Alterations, including interior demolition as defined in Sections 5.3.2(h)(iii) and (iv) (such sections shall continue to be applicable to the Demolition Delay By-Law).
4. Ordinary maintenance and repair of architectural features that match the existing conditions including materials, design and dimensions.
5. Removal of substitute siding provided, however, that any replacement siding and trim shall be reviewable.
6. Reversible changes of color (such as staining or repainting of wood siding or trim, but not work such as painting of previously unpainted masonry).
7. Removal, replacement or installation of the following exterior elements (this exemption shall not apply to replacement windows which may include storms or screens):
  - a. Exterior storm windows and exterior storm doors
  - b. Exterior window screens or exterior screen doors
  - c. Gutters and downspouts
  - d. Removable window air conditioners, but not permanently installed HVAC equipment whether as part of a building or freestanding.
  - e. Satellite dishes or antennae less than 3 feet in maximum width.
8. In-kind replacement of plant material.
9. Removal of public shade trees or plant material that is severely damaged or dying due to weather-related events or natural causes.
10. Reconstruction, substantially similar in exterior design, of a building, damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within the time period specified in Section 8.03.1 of the Zoning By-Law and carried forward with due diligence.
11. Replacement windows and doors, and windows and doors installed in an addition or new construction, whether including single-pane glass or multiple-pane insulating glass, provided that (a) the exterior appearance is consistent in size, scale and detailing with that of pre-existing windows and doors on the building and adjacent buildings, as through the use of true divided lites or exterior muntins adhered to the exterior glass surface, and (b) reflective or tinted glass is not used, unless used in the pre-existing windows and doors.

#### **5.10.7. PROCEDURES FOR REVIEW**

Any Reviewable Project not exempted above requires the submittal of an application for regulatory review by the Commission. The application shall be accompanied by a filing fee as may be determined from time to time by the Board of Selectmen. As may reasonably be deemed necessary by the Commission to enable it to make its determination on the application, the application may be required to include (a) drawings and/or photographs showing existing conditions, including existing buildings and other structures, landscape features and vegetation, open spaces and pedestrian and vehicular paths, and (b) plans, elevations, specifications, photographs, descriptions of materials and other supporting information of the proposed changes.

Within forty-five business days of the submittal of a complete application, including all required supporting information, the Commission shall hold a public hearing on the application. At least fourteen days before said public hearing, public notice shall be

given. Such notice shall identify the time, place and purpose of the public hearing.

At or subsequent to the public hearing, the Commission shall determine whether the proposed alteration or other Reviewable Project, including any modification thereof agreeable to the applicant, is compatible with the specific design guidelines of the applicable district and the purposes of this by-law. The Commission may waive or modify the application of a design guideline in a particular case if such waiver will not derogate the protections provided by this by-law to the neighborhood and abutters.

If the Commission determines that the alteration is compatible with the design guidelines for the district, the Commission shall issue a Certificate of Appropriateness. If deemed necessary to ensure that an alteration is compatible with the design guidelines, the Commission may attach appropriate conditions to the Certificate of Appropriateness. The concurring vote of a majority of Commission members, including voting alternates (i.e., not less than three votes for a five-member commission and not less than four votes for a seven-member commission) shall be required to issue a Certificate of Appropriateness.

If the Commission does not determine that the alteration is compatible with the design guidelines for the district, the Commission shall deny the Certificate of Appropriateness. The Commission shall provide the applicant with the reasoning for its denial including the manner in which the alteration does not meet the applicable design guidelines in Section 5.10.3.d or the purposes of this by-law.

The Commission may further delay or totally prohibit demolition in addition to any delay provided by the Brookline Demolition Delay By-Law. In considering an application to demolish a building or structure, the Commission shall consider the architectural or historical significance of the building, including, if any, the findings of the Preservation Commission under the Demolition Delay By-Law; the siting and significance of the building or structure in relation to its surroundings and surrounding buildings either by itself or as a component as a group of buildings or structures; and the design and siting of any replacement building or structure.

#### **5.10.8. PROCEDURES FOR ISSUANCE AND FILING OF CERTIFICATES**

Each Certificate issued by the Commission shall be dated and signed by its chairperson or such other person designated by the Commission to sign such Certificates on its behalf. The Commission shall send a copy of its Certificate or denial to the applicant and shall file a copy of the Certificate or denial with the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or denial shall be the date of the filing of a copy of such Certificate or denial with the office of the Town Clerk.

If the Commission should fail to make a determination within sixty business days of the filing of a complete application for a Certificate including all required supporting information, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Appropriateness due to failure to act.

#### **5.10.9. ENFORCEMENT AND PENALTIES**

The Commission is specifically authorized to institute any and all actions, including proceedings in law and in equity, as it deems necessary and appropriate to obtain



compliance with the requirements of this by-law or to prevent a threatened violation thereof.

The Commission may designate the Building Commissioner to act on its behalf and to enforce this by-law under the direction of the Commission.

Any owner of a property subject to this by-law that has altered a building or other structure or proceeded with a Reviewable Project without first obtaining a Certificate of Appropriateness in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until the alteration is corrected, the addition is removed, a faithful restoration of the demolished building or structure is completed, suitable replacement trees are planted, or the property is otherwise returned to its original condition unless otherwise agreed to by the Commission.

#### **5.10.10. APPEAL PROCEDURE**

Any applicant or person aggrieved by a determination of the Commission may appeal as provided for in the Massachusetts General Laws.

#### **5.10.11. VALIDITY AND SEPARABILITY; OTHER BY-LAWS**

The provisions of this by-law shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder of this by-law shall continue to be in full force and effect. Nothing in this by-law shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this by-law imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail.

or act on anything relative thereto.

### **ARTICLE 6**

(A) To see if the Town will amend its General By-Laws to establish the Hancock Village Neighborhood Conservation District, defined by the map attached hereto, by adding a new section 5.10.3.d as follows:

d. Specific districts and guidelines.

1. There shall be a Neighborhood Conservation District, to be entitled the “Hancock Village Neighborhood Conservation District”, the boundaries of which are shown on the map entitled “Hancock Village Neighborhood Conservation District”, a copy of which is on file with the Town Clerk’s office, which is hereby declared to be part of this By-law.

The first and largest garden city apartment complex in Brookline, Hancock Village (1946-1949) is significant as a far-sighted, historically important collaboration between the town of Brookline and the Boston-based John Hancock Mutual Life Insurance Company to provide both employment and housing for returning World War II veterans. The development, which straddles the Brookline-Boston line, consists of 789 two-story attached townhouses, most of which are located in Brookline. In consideration of a zoning change by the Town which allowed the development to proceed, the development was designed and built as a high-quality development in the “garden village” style,

meaning that each dwelling unit had a separate entrance to the exterior; the units were town-homes of two stories with peaked roofs; there was substantial open space; and there was a “greenbelt” serving as a buffer between the development and adjacent single-family homes. Such elements were embodied in commitments made on behalf of John Hancock Insurance by its president Paul F. Clark, including an agreement with the Town of Brookline executed March 11, 1946. The landscape design was by Olmsted Associates, a Brookline firm with international experience and reputation. Significantly, Hancock Village remains the quality housing development conceived in those commitments and original design, and therefore remains internally coherent in design and compatible in scale, siting and impact with the adjacent neighborhood of single-family homes and with the D. Blakely Hoar Wildlife Sanctuary, especially due to the retention in Hancock Village of open lawns, courtyards and common areas, pedestrian paths, consistent town-house style buildings of modest scale, unobstructed sky planes, buffer zones, and significant landscape features such as puddingstone outcrops. Retaining integrity of location, design, setting, materials, workmanship, feeling, and association, the Hancock Village Neighborhood has as such remained an important historic property in Brookline and a compatible part of the fabric of the community and the adjacent neighborhood.

The Hancock Village Neighborhood Conservation District shall be governed by the following design guidelines. Any further development shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood:

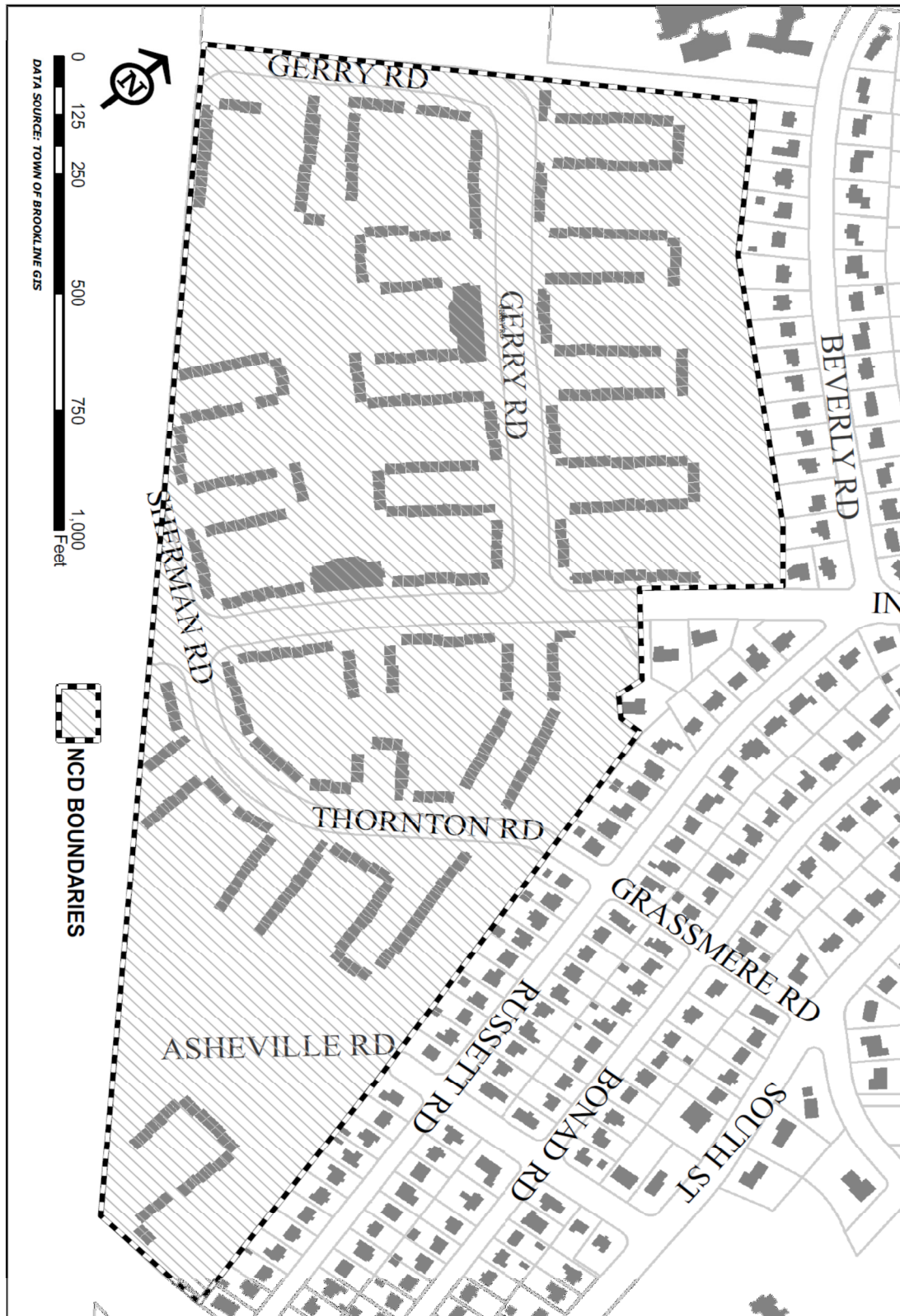
- i. Architectural style and character. The architectural design and building materials of any proposed Reviewable Project shall be compatible with the existing garden-village town-house architecture within the district, with, for example, each dwelling unit having a separate entrance to the exterior.
- ii. Building size, height and massing. The size, height and massing of a building or other structure which is part of any proposed Reviewable Project shall be compatible with existing buildings and other structures within the district and the adjacent neighborhood, and the elements considered shall include but not be limited to the volume and dimensions of any buildings or other structure; the scale, clustering and massing of any building or other structure in relation to its surroundings, including existing buildings and other structures and nearby landscape and other open spaces; and compatibility of design and materials with existing buildings and other structures. Compatible building size, height and massing shall include, not be limited to limited to:
  - a. No building over 2 ½ stories in height, measured from the highest point of the finished grade of each unit, shall be constructed.
  - b. In relation to any abutting single-family, detached homes, any new single-family homes shall be similarly oriented, have similar rear yard depths, and similar distance between dwelling units.
- iii. Façade. The number, size and location and design of windows, doors and solid elements, trim work, piers, pilasters, soffits, cornices, decks, porches and canopies, and the design of window and door details, including trim, muntins, mullion and sills, need not replicate but shall be compatible with the existing

buildings within the district. Alterations necessary for handicap accessibility shall be compatible to the extent reasonably feasible.

- iv. Roof treatment. The shape, pitch, style, and type of surfacing of roof areas shall be compatible with those of buildings within the district. Including buildings in any Reviewable Project, buildings with flat or approximately flat roofs will not exceed 25% of the total number of buildings in the entire NCD.
- v. Streetscape, topography and landscape. Any proposed Reviewable Project (including demolition, removal, new construction or other alteration) shall maintain the spatial organization of the district and shall not have a significant negative impact on historic architectural or landscape elements, including structures, open spaces, green spaces, topography, walls and fences, circulation patterns including pedestrian circulation separated from vehicular traffic, viewsheds, park areas, play areas, courtyards and other landscaped areas previously accessible and usable in common, significant trees as defined in this by-law, and buffer areas. The existing spatial organization and land patterns of the landscape shall be preserved, including the curvilinear circulation patterns and views from roads, sidewalks, pathways and buildings. Significant negative impacts shall include, but not be limited to:
  - a. Removal or alteration of rock outcroppings greater than 200 square feet in contiguous area;
  - b. Alteration of existing grades by more than three feet in vertical height;
  - c. Removal of existing pedestrian paths that separate pedestrians from vehicular traffic;
  - d. Addition of new impervious surfaces within 100 feet of abutting properties, including the Hoar Sanctuary or single-family homes; and
  - e. Loss of open space through building coverage exceeding 20% of the area of the district or through loss of the “greenbelt” now serving as a buffer to the abutting single-family detached homes.

Nothing in this Section 5.10.3.d.1 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.1 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.1 shall be deemed to be separable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

# PROPOSED HANCOCK VILLAGE NEIGHBORHOOD CONSERVATION DISTRICT



or act on anything relative thereto.

## **ARTICLE 7**

To see if the Town will amend the General By-Laws Article 8.23, Tobacco Control as follows:

First, by adding a new Section 8.23.1 as follows:

Section 8.23.1      PURPOSE

In order to protect the health, safety and welfare of the inhabitants of the Town of Brookline, including but not limited to its younger population, by restricting the sale of tobacco products know known to be related to various and serious health conditions such as cancer, this by-law shall limit and restrict the sale of Tobacco Products within the Town of Brookline.

Second, amend Section 8.23.1, DEFINITIONS by changing the Section No. to 8.23.2 and renumbering the remaining sections accordingly and by adding the following definitions to said section:

- k. Health Care Institution - An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Health under M.G.L. c. 112. Health care institution includes hospitals, clinics, health centers, pharmacies, drug stores and doctors' and dentists' offices.
- l. Entity - any single individual, group of individuals, corporation, partnership, institution, employer, association, firm or any other legal entity whether public or private.
- m. educational Institution - any public or private college, normal school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.
- n. Retail Establishment - any store that sells goods or articles of personal services to the public.

Third, amend Section 8.23.4, SALE AND DISTRIBUTION OF TOBACCO PRODUCTS by amending the existing paragraph a. (language to be deleted is underlined and new language appears in bold) and further by adding the following paragraphs f, g. and h. to said section:

- a. Permit – No Entity person, firm, corporation, establishment or agency otherwise permitted to sell tobacco products shall sell such tobacco products within the Town of Brookline without a valid tobacco sales permit issued by the Director of Public Health. Permits must be posted in a manner conspicuous to the public. Tobacco sales permits shall be renewed annually by June 1<sup>st</sup>, at a fee set forth in the Department's Schedule of Fees and Charges.

- f. Prohibition Against the Sale of Tobacco Products by Health Care Institutions - No health care institution located in the Town of Brookline shall sell or cause to be sold tobacco products. Additionally, no retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.
- g. Prohibition Against the Sale of Tobacco Products by Educational Institutions - No educational institution located in the Town of Brookline shall sell or cause to be sold tobacco products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

Fourth, amend Section 8.23.5, VIOLATIONS AND PENALTIES, by deleting Section 8.23.5(c) and replacing it with the following section:

- c. Any entity violating any other section of this by-law shall receive a fine of three hundred dollars (\$300.00) for each offense.

Fifth, by further amending Section 8.23.5 by adding the following language:

- f. Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.
- g. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Brookline Health Department or a Town department or Board from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or Board for repeated violations of this regulation.

Sixth, to amend Article 10.3, NON-CRIMINAL DISPOSITION, Table of Specific Penalties Under Article 10.3 by deleting the language under the heading Article 8.23, Tobacco Control and replacing it with the following language:

Section 8.23.5 Violations and Penalties

For each violation under Article 8.23 – three hundred (\$300.00)

Or act on anything relative thereto.

**ARTICLE 8**

To see if the Town will amend the General By-Laws by adding the following article:

**ARTICLE 8.30      FINGERPRINT-BASED CRIMINAL RECORD  
BACKGROUND CHECKS**

Section 8.30.1      Purpose/Authorization

In order to protect the health, safety, and welfare of the inhabitants of the Town of Brookline, and as authorized by chapter 256 of the Acts of 2010, this by-law shall require

- a) applicants for certain Town licenses permitting the engagement in specific

occupational activities within the Town as enumerated in Section 8.30.2 below to submit to fingerprinting by the Brookline Police Department, b) the Police Department to conduct criminal record background checks based on such fingerprints, and c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

#### Section 8.30.2            Applicant's Submission to Fingerprinting by the Brookline Police Department

Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Brookline Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Liquor Licensee
- Manager or Alternate Manager of a Liquor Licensee
- Hawker and Peddler
- Hackney Carriage (Taxi) Operator
- Door-to-Door Solicitor
- Second-Hand Dealer
- Automobile Dealer
- Ice Cream Truck Vendor

At the time of fingerprinting, the Police Department shall notify the individuals fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

#### Section 8.30.3            Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results

The Police Department shall transmit fingerprints it has obtained pursuant to Section 8.30.2 of this by-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in Section 8.30.2.

As further detailed in the Town's policy applicable to Town licensing-related criminal record background checks, the Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall

also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with the Town's policy applicable to Town licensing-related criminal record background checks.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall in addition render to the licensing authority its evaluation of the applicant's suitability for the proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Police Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

#### Section 8.30.4                      Reliance on Results of Fingerprint-Based Criminal Record Background Checks

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 8.30.2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

#### Section 8.30.5                      Compliance with Law, Regulation, and Town Policy

Implementation of this by-law and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

#### Section 8.30.6                      Fees

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be set by the Board of Selectmen pursuant to G.L.c.40, s.22F. A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B ½, shall be deposited into the Firearms Fingerprint Identity Verification



Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

Or act on anything relative thereto.

## **ARTICLE 9**

To see if the town will amend the General By-Laws by adding in Part VIII Public Health and Safety a new Article 8.30 -- as follows:

### Article 8. -- Leaf Blowers

#### Section 8.---.1: STATEMENT OF PURPOSE

Reducing the use of gasoline and oil fuels and reducing carbon emissions into the environment are public purpose of the Town and the reduction of noise and emissions of particulate matter resulting from the use of leaf blowers are public purposes in protecting the health, welfare and environment of the Town. Therefore, this by-law shall limit and regulate the use of leaf blowers as defined and set forth herein.

#### Section 8.---.2: USE REGULATIONS

*1. Leaf blower.* Leaf blowers are defined as any portable machine used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

*2. Limitations on Use.*

- a. Leaf blowers shall not be operated except between March 15 and May 15 and between September 15 and December 15 in each year. The provisions of this subsection do not apply to the use of leaf blowers by the Town and its contractors for operations in municipal parks or open space, or for performing emergency operations and clean-up associated with storms, hurricanes and the like.
- b. The use of leaf blowers is permitted only between the hours of 7:00 a.m. and 7:00 p.m. Mondays through Fridays and 9:00 a.m. and 6:00 p.m. on Saturdays, Sundays and holidays.
- c. The sound emitted from any leaf blower shall be no greater than 67 decibels (dBA) when measured at 50 (fifty) feet from the leaf blower.
- d. On parcels of 10,000 square feet or less, only one leaf blower at a time may be used, and on parcels larger than 10,000 square feet, only one leaf blower may be used within each 10,000 square foot area

*3. Fees.*

A fee for the Town to recover all costs connected with sound testing and enforcement may be charged in an amount set by the Board of Selectmen.

*4. Regulations.*

The Commissioner of Public Works with the approval of the Board of Selectmen shall have the authority to promulgate regulations to implement the provisions of this Leaf Blower By-Law.

*5. Enforcement and Penalties*

- a. This bylaw may be enforced in accordance with Articles 10.1, 10.2 and/or 10.3 of the General By-Laws by a police officer, the Building Commissioner or his/her

designee, the Commissioner of Public Works or his/her designee and/or the Director of Public Health or his/her designee.

b. For the purposes of this section “person” shall be defined as any individual, company, occupant, real property owner, or agent in control of real property. Each violation shall be subject to fines according to the following schedule:

- (a) \$50.00 for the first offense;
- (b) \$100.00 for the second offense;
- (c) \$200.00 for the third offense;
- (d) \$200.00 for successive violations, plus
- (e) court costs for any enforcement action.

#### *6. Effective Date.*

The provisions of this Leaf Blower By-Law shall be effective in accordance with the provisions of G.L.c.40, s.32.

or act on anything relative thereto.

### **ARTICLE 10**

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

#### **AN ACT AMENDING CHAPTER 51 OF THE ACTS OF 2010 TO CREATE A TAXI MEDALLION FUND**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 51 of the acts of 2010 is hereby amended by striking out section 6 and inserting in place thereof the following: “SECTION 6. Chapter 317 of the acts of 1974 is hereby amended by inserting after section 4 the following section:--

Section 4A. Notwithstanding chapter 30B or section 3 of chapter 40 of the General Laws or any other general or special law to the contrary, the board of selectmen shall have the exclusive authority to sell taxi licenses by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board after public hearing. The board of selectmen may entrust to the transportation board broad discretion to take actions necessary to implement this section and to sell taxi licenses, including, but not limited to, determining the number of licenses that shall be sold, the timing of the sales, and any conditions and limitations pertaining to the sales, including the power to revoke, suspend, renew and assign the licenses, except that the board of selectmen shall approve sales prices and execute sales contracts. Proceeds from the sales of licenses shall be paid to the collector-treasurer of the town of Brookline for deposit into a Taxi Medallion Fund, which is hereby created under this section, to be appropriated pursuant to section 5 of chapter 40 of the General Laws. The board of selectmen may direct the board that in taking any action the board considers necessary to implement this section and to sell taxi licenses, including the adoption, alteration or repeal of rules and regulations after public hearing, the board may balance, in its discretion,

the interest of Brookline residents in the continuity of existing Brookline taxi businesses, the interest of existing license holders in their investment in their businesses, the interest of the town in augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a whole, and the town's interest in maximizing revenue generated from sales of taxi licenses. The board of selectmen may consider these factors in determining whether to agree to a taxi license sales price. Any appeal from the board of selectmen's sale of a taxi license shall be to a court of competent jurisdiction.

This section shall not apply to a license issued and outstanding on the effective date of this act.

Rules and regulations adopted, altered, or repealed by the board after public hearing in connection with implementing this section, including rules or regulations adopted, altered, or repealed for the purpose of creating a property interest in the licenses and of undertaking the sales of taxi licenses, shall not take effect until 30 days have expired after publication of the rules and regulations in a newspaper published or distributed in the town and on the town's website. Any appeal from the board's adoption, alteration, or repeal by the board in connection with implementing this section shall be to a court of competent jurisdiction.”

SECTION 2. This act shall take effect upon its passage.

or act on anything relative thereto.

### **ARTICLE 11**

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT THAT REMOVES THE TOWN OF BROOKLINE AS A MEMBER COMMUNITY IN NORFOLK COUNTY.

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline shall, on the first day of July, in the year two thousand and twelve, cease to be a member community in Norfolk County.

SECTION 2. Notwithstanding the provisions in SECTION 1., above, the town of Brookline shall continue to be in the Norfolk Registry District, court system and penal system.

SECTION 3. This act shall take effect upon its passage;

or act on anything relative thereto.

### **ARTICLE 12**

To see if the Town will adopt the following Resolution:

Resolution in Support of Abolishing Norfolk County Government

WHEREAS, county governments are seen as outmoded and inefficient and in 1997 and 1998 the General Court of the Commonwealth of Massachusetts dissolved most county governments (Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk, and Worcester Counties);

WHEREAS, most of the functions, services and duties of the dissolved county governments were transferred to state offices. For example, the duties of the Registries of Deeds all now come under the Office of the Secretary of State while the Sheriffs and jails come under the Executive Office of Public Safety;

WHEREAS, in dissolving most county governments the Commonwealth took on liability for continuing liabilities associated with the dissolved county governments such as pensions and other post-employment benefits;

WHEREAS, Norfolk County and several other county governments in southeastern Massachusetts remain;

WHEREAS, the Town of Brookline continues to pay mandatory assessments to Norfolk County government;

WHEREAS, for Fiscal Year 2012, the Norfolk County assessment for the Town of Brookline is nearly \$700,000, which is an increase of more than 9% over the prior year;

WHEREAS, municipalities which are located in counties where the county government has been dissolved receive essentially the same services from the Commonwealth as those formerly provided by the county but pay no mandatory assessment to a county government;

WHEREAS, municipalities which are located in counties where the county government has been dissolved do not contribute toward the continuing liabilities of the former county government;

WHEREAS, it is unfair and inequitable that Brookline, and other similar municipalities, should be saddled with large county government assessments while municipalities located in counties where county government has been dissolved receive essentially the same services without paying an assessment;

WHEREAS, assessments paid by municipalities to the county government are based on the municipality's property tax assessments and, therefore, the Town of Brookline's financial contribution to Norfolk County government is dramatically disproportionate to its population and to the benefits the Town receives;

WHEREAS, except for the hearing of criminal cases in the Brookline District Court, the Town of Brookline derives minimal benefit from Norfolk County government and the few benefits which are derived could easily be provided for in an alternative and more cost efficient means;

WHEREAS, state judicial officials have recently announced that criminal and civil cases will no longer be heard in the Brookline District Court, and have given formal notice to that effect; and

WHEREAS, it is unfair and inequitable that the Town of Brookline should pay a disproportionate share of the Norfolk County government assessment relative to the benefits received by the Town of Brookline.

NOW IT IS, THEREFORE, RESOLVED, that the Board of Selectman are requested to petition the Town's legislative delegation to file a petition with the General Court to abolish the Norfolk County Government.

or act on anything relative thereto

### **ARTICLE 13**

To see if the Town will approve the following Resolution:

WHEREAS traffic congestion along Harvard Street near the Beacon Street intersection impacts Beacon Street traffic flow and causes significant delays for commuters, makes life more difficult for local residents whether driving, biking or walking, and is harmful to local businesses by discouraging travel to Coolidge Corner, and

WHEREAS an important contributing factor to this traffic congestion is the fact that traffic along Harvard Street must come to a complete halt when pedestrians cross Harvard Street at the Green Street crosswalk randomly and frequently, especially at times when a green light at the nearby Beacon Street traffic signal would otherwise allow Harvard Street traffic to flow more smoothly through Coolidge Corner, helping to ease traffic congestion,

NOW, THEREFORE BE IT RESOLVED THAT: Town Meeting requests relevant Town officials including members of the Planning Department, the Engineering and Transportation Divisions of the Department of Public Works, the Finance Department, and others with relevant expertise and responsibilities, prepare cost estimates for the design, installation, and operation of a pedestrian-activated crossing signal at the Green Street crosswalk on Harvard Street, said signal to be coordinated with the Beacon Street traffic signal so as minimize the impact of pedestrian crossing on traffic flow along Harvard Street; and further to prepare a line item for a Special Appropriation for such a walk signal to be included in the FY2013 Appropriation Article in the Warrant for the 2012 Annual Town Meeting.

or act on anything relative thereto.

### **ARTICLE 14**

To see if the Town will take the following action:

“Resolved, that the Town replace all new multi-space parking meters with single space mechanical or electronic meters or, at a minimum, substantially modify or retrofit the new multi-space meters to make them easier to operate and function more efficiently.

or act on anything relative thereto

## **ARTICLE 15**

### **Resolution to Regulate the Use of Town Parks and Playgrounds by licensed Group Day Care Centers and or Private Early Education Programs**

Whereas the State Department of Early Education and Care has granted 11 Group Center licenses within ½ mile of Town Hall; and

Whereas these centers have multiple groups of children with a collective population of approximately 450 children between the ages of 3 months and five years with required staff ratios for Toddlers at 2:9 and Preschool and Pre-kindergarten children at 1:10; and

Whereas these centers are required by state law to provide one hour of physical activity each day, and many, not having their own out door play space, bring their children to nearby playgrounds; and

Whereas the introduction of too many children at one time into a playground or on any play element threatens the safe use of the parks by members of the public; and

Whereas the town has not yet measured its play elements and posted signage recommending safe use; and

Whereas the state requires a minimum of 75 square feet per child for an outside play area to be deemed safe,

Therefore, Be It Hereby Resolved That: Town Meeting urges the Brookline Parks and Recreation Commission to establish Rules and Regulations for the Safe Use of its Parks and Playgrounds by licensed Day Care Centers and or Private Early Education Programs including, but not limited to the following:

1. A master schedule set by the Director of Recreation which permits only one licensed Group Center or Early Education Program at a time, with a maximum of 20 children, into a designated playground for a period of no longer than 40 minutes
2. Issuance of a hand held permit that designates playground, hour of use and can be seen upon request
3. Posted signage indicating Group Day Center and or Private Early Educational Program staff carry permits designating playground, hour of use, and can be seen upon request.
4. Posted signage on every play element, based on the state's mandated 75 sq. ft. per child ratio, recommending maximum capacity. These numbers shall guide staff in selecting available play elements or open green space.
5. Staff supervision of children within 6 feet of play element or closer depending on age.
6. Required group dress or identification bracelets appropriately sized to not hinder safe play.

7. Required name-face attendance sheets completed before leaving park and reviewed by Health Department during regular inspections.
8. Required pick –up and delivery of children from the Group Day Care Center and or Early Education Program facility.
9. Required staff training of rules and regulations for safe use of playgrounds.
10. And to recommend to the Board of Selectmen, an annual fee, determined by hours scheduled, to support maintenance of the grounds, improvement of equipment and to fund enforcement of the rules and regulations, with said fees to go to the Recreation Revolving Fund.
11. Or act on anything relative there to.....

#### **ARTICLE 16**

To see if the Town will adopt the following resolution:

#### **Resolution to Change the Scheduling of Town Meetings**

WHEREAS Town Meeting has historically met on Tuesday, Wednesday, and Thursday evenings until it has concluded its business; and

WHEREAS an experiment in the spring of 2011 to hold Town Meeting on non-consecutive evenings was well-received and appreciated by many Town Meeting Members; and

WHEREAS a number of Town Meeting Members prefer a schedule of non-consecutive evenings; and

WHEREAS other Town Meeting Members prefer to meet on consecutive evenings,

NOW THEREFORE BE IT RESOLVED that Town Meeting intends that the spring Annual Town Meeting, shall be held on two non-consecutive evenings per week and that the fall Special Town Meeting shall be held on up to three consecutive evenings per week and asks the Selectmen and the Moderator to schedule accordingly. Such schedule shall remain in effect as permanent or for such lesser period of time as Town Meeting shall determine in voting this article.

Or act on anything relative thereto.

#### **ARTICLE 17**

*Resolution: Classroom Pledge of Allegiance is Bad for Education, Diversity, & Patriotism*

To see if the Town will adopt the following Resolution:

**1. Whereas:** Brookline has proud traditions cherishing not only educational excellence, but also diversity, *e.g.*, for families of varied nationalities, cultures, religions, beliefs, and (dis)abilities;

**2. Whereas:** Our School Committee in 2011 made more “uniform” its prior but unevenly enforced “policy,” to now mandate that each principal include at least weekly in her/his morning announcements in all classrooms a purportedly “voluntary” Pledge of Allegiance recitation, without clearly (or at all) guiding teachers, students, and/or parents as to how to proceed – a futile goal anyway, resulting in the opposite of “uniform” behavior, not unifying, but dividing, a near-spectacle that is even a disservice to “patriotism”;

**3. Whereas:** The 2011 policy was based on a pre-existing one, in turn based on a moribund and toothless 1978 law, M.G.L. c.71, §69, passed after our SJC and AG Bellotti had each ruled it unconstitutional, and Gov. Dukakis’ had therefore courageously vetoed it – because it compels teachers to lead a religiously-tinged Pledge, as does the 2011 policy for principals;

**4. Whereas:** For numerous Brookline parents the Pledge’s overall thrust and/or specific content – when recited in kids’ classrooms, “captive” settings, under auspices of the school’s principal authority figure – even if purportedly “voluntary,” is ill-advised for various heartfelt reasons:

**A.** Some parents’ disagree with some or many of its specific pronouncements, *e.g.*, religious beliefs (offensive in secular schools, anyway); in essence “my country right or wrong”; insensitivity to non-US-citizen families; seeming satisfaction about our accomplishments, like “liberty & justice for all,” rather than stating them as aspirational ideals;

**B.** It is literally and psychologically a “loyalty-oath” [see [www.answers.com/topic/loyalty-oath](http://www.answers.com/topic/loyalty-oath)], reminiscent of McCarthyism or some horrific totalitarian regimes. During principals’ announcements in classrooms, a purportedly “voluntary” Pledge is an oxymoron, a difficult “Hobson’s Choice,” especially for kids as young as six. It is inherently coercive, especially for younger kids. Groups like ACLU & ADL have urged that classroom Pledging has a “coercive effect, ... plac[ing] students in the untenable position of choosing between participating in an exercise with religious content or protesting”;

**C.** Daily classroom Pledging even has “bullying” parallels. Brookline’s new “*Bullying Prevention-Intervention Plan*” begins, “[I]n keeping with [our] core value of respect for human differences ...,” and says, “‘bullying’ includes ‘verbal ... expression ... that ... causes ... emotional harm ... [or] creates a hostile ... environment ...’”; and, “[we] will treat each other in a civil manner, respect[ing] differences ... and support[ing] vulnerable populations”;

**D.** One prominent School Committee member publicly acknowledges that “rote recitation of the Pledge advances nothing for learning or for civic values.” Indeed, it is educationally un-sound – since it discourages “critical thinking” and in some ways teaches kids how *not* to be a good citizen in a diverse republic; and

**5. Whereas:** With divisiveness and nationwide media spotlight, from 1983 to 1992 Town Meeting annually rejected an allegedly “voluntary” Pledge as an official ritual, eventually in 1992 adopting a very successful compromise – offering a Pledge opportunity before convening,



**Now, Therefore Be It Resolved:** Town Meeting urges our School Committee to:

A. preferably, rescind its Pledge of Allegiance policy, and stop its recital in mandatory settings, it being neither legally required nor good for education, tolerance, or patriotism;

B. or, if a Pledge opportunity for purportedly “voluntary” kids – and parents – is nonetheless deemed educationally necessary and important, which Town Meeting disputes, then do it only in periodic *GROUP ASSEMBLIES*, which are less frequent and less coercive due to a lesser spotlight effect – and possibly adding a “patriotic” song (as does Town Meeting).

,or act on anything relative thereto.

## **ARTICLE 18**

To see if the town will adopt the following resolution:

### **A Resolution Concerning the Use of Robocalls in Political Campaigns**

Whereas, the Do-Not-Call Implementation Act of 2003 has provided to Americans an opportunity to refuse to accept commercial telemarketing calls;

Whereas, Senator Diane Feinstein (D-CA) introduced a Federal Robocall Privacy Act (S. 2624) to the 110<sup>th</sup> Congress in February 2008;

Whereas, Citizens for Civil Discourse (CCD), a non-profit, non-partisan organization, is attempting to get politicians to follow the wishes of those citizens who have signed up for their National Political Do Not Contact Registry; and

Whereas, many Americans, including residents of Brookline, find political robocalls to be intrusive and disruptive;

NOW, THEREFORE, BE IT RESOLVED THAT this Town Meeting urges all political candidates for state and federal offices running in Massachusetts to be judicious and sparing in the combined use of computerized autodialers and pre-recorded messages in political campaigns; and

Be it Further Resolved, that, within two weeks of its adoption and afterwards for newly announced candidates and committees, the Town Clerk send notice of the adoption of this resolution to the campaign offices of all registered state and federal office political candidates whose names will appear on primary and general ballots in Brookline, as well as all committees advocating positions on questions that will appear on the general ballots in Brookline

or act on anything relative thereto.

## **ARTICLE 19**

Reports of Town Officers and Committees

AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen FOURTEEN DAYS at least before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this thirteenth day of September, 2011.

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BOARD OF SELECTMEN

